

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ROBERT B. EUBANK,

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Plaintiff,

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vs.

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Civil Action No. CV 04-S-3449-S

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JEFFERSON COUNTY, et al.,

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)

Defendants.

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MEMORANDUM OPINION

The magistrate judge filed his Third Report and Recommendation in this action on January 24, 2007, recommending that the plaintiff's claims against the remaining defendants be dismissed, some with prejudice, others without. To date, no objections to the report and recommendation have been filed by any party. Having now carefully reviewed and considered *de novo* all materials in the court file, the court hereby ADOPTS the report and ACCEPTS the recommendation.

Accordingly, by separate order, the court will:

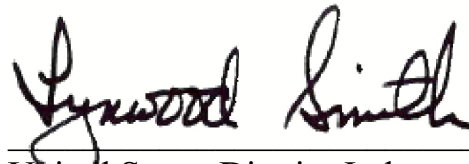
1. Dismiss with prejudice *all* claims against defendant Robert Gwin for failure to state a claim;

2. Dismiss with prejudice all *federal* claims against defendants Jeanne Marie Leslie, Anthony McLain, and Robert Lusk, and all *state* claims asserted against them in their *official* capacities, and dismiss without prejudice all *state* claims against them

in their *personal* capacities pursuant to 28 U.S.C. § 1367(c); and

3. Grant summary judgment with respect to and dismiss with prejudice all *federal* claims against defendants Ralph Hendrix and Foster Cook, dismiss with prejudice all *state* claims against them in their *official* capacities, and dismiss without prejudice all *state* claims against them in their *personal* capacities pursuant to 28 U.S.C. § 1367(c).

DONE this 28th day of February, 2007.

A handwritten signature in black ink, reading "Lynwood Smith". The signature is written in a cursive, flowing style. The first name "Lynwood" is written with a large, stylized 'L' and 'y'. The last name "Smith" is written with a large, stylized 'S' and 'm'. The signature is positioned above a horizontal line.

United States District Judge